

Mike Perry

SB 278 Educational Support Order— Senator Kim Gillan

This bill would provide guidance to District Court judges, as they oversee marital dissolutions. Despite the best efforts of many, the concerns and needs of children... young and old... can be overlooked. SB 278 is permissive and is an important step to modernize Montana's divorce laws.

The US Commission on Interstate Child Support recommends that state guidelines direct the courts to award child support up to age 22 if the child is enrolled in college or vocational school... giving the courts DISCRETION.

What SB 278 does:

1. Gives the court guidance (in a separation, divorce, etc) the court MAY order a reasonable amount of educational support (i.e. post high school educational support). Under current Montana law, (MCA 40-5-201) Child means a person under 18 years of age who is not otherwise emancipated, self supporting, married or a member of the armed forces or a person under 19 years of age and still in high school. Support past the age of 18 (few exceptions) cannot be ordered. See page 7. Line 28 of the bill.
2. SB 278 recognizes that college/degree/certificate funding (for a child) should NOT be automatic; the court must follow guidelines in determining the reasonableness of providing educational support. (Bottom page 1, top of page 2).
3. Judge can ALSO order parents to cooperate to the fullest extent in the preparation and provision of financial information for loans, scholarships, etc... (Page 3). THIS IS CRITICAL.

Why do Montana's children deserve SB 278?

1. Divorce is becoming more prevalent in Montana. The concerns and future of children of divorce... beyond 18 years of age, should be, where applicable, factored into divorce

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proceedings... MCA 40-4-101 recognizes the need to mitigate the potential harm to spouses and their children caused by the process of legal dissolution. Children... young and old... need to be factored into this process. At age 18, most Montana children are still very much a part of their family...

2. Post-secondary Education has become a necessity for our children. It is one of the most important, proven keys to a person's success and progress. College is a necessity, not a luxury.
3. Almost 50% of the States make provisions specifically for higher education within their guidelines or case law re: educational support.
4. This has been vetted in the courts. Only in Pennsylvania where the duty to provide college education was ruled unconstitutional; it has stuck in Oregon, is a necessity for our children...
5. During divorce proceedings, older children are often forgotten. Yet, they are equally vulnerable and SB 278 will provide some guidance to parents when they are discussing their dissolution.

What SB278 DOES NOT DO:

Set up a mandate for parents to fund their children's education—whether divorced or not. (Top of page 3) **this section does not create a right of action by a child for parental support for higher education.**

How will SB 278 help: Private colleges DO look at both parents incomes, regardless of marital status? For the FAFSA "financial aid applications can be confusing because there are several different criteria and interpretations of parenthood." Financial Aid is limited. Demonstration of need is critical.

Teens are left out in the cold; they are often caught in a bind between parents.